

PLAINTIFFS

Taracorp, Inc.
Seitzingers, Inc. Taracorp Industries

DEFENDANTS

William D. Ruckelshaus

3/22/84

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

S. Jarvin Levison
Simon A. Miller
Arnall Golden & Gregory
55 Park Place, Suite 400
Atlanta, Georgia 30335

ATTORNEYS (IF KNOWN)

EPA Region 5 Records Ctr.



258684

PLACE AN ☒ IN ONE BOX ONLY

PARTY

☐ 1 U.S. PLAINTIFF ☒ 2 U.S. DEFENDANT ☐ 3 U.S. NOT A PARTY

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

Complaint for Declaratory and Injunctive Relief against administrative activity under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq.

PLACE AN ☒ IN ONE BOX ONLY

NATURE OF PROCEEDING

☒ THIS IS A "RELATED PROCEEDING" UNDER THE MODEL BANKRUPTCY REFERENCE RULE.
☐ THIS IS NOT A "RELATED PROCEEDING" UNDER THE MODEL BANKRUPTCY REFERENCE RULE.

(PLACE AN ☒ IN ONE BOX ONLY)

NATURE OF SUIT

- ☐ 110 INSURANCE
- ☐ 130 MILLER ACT
- ☐ 140 NEGOTIABLE INSTRUMENT
- ☐ 160 STOCKHOLDERS SUITS
- ☐ 185 CONTRACT PRODUCT LIABILITY
- ☐ 210 CONDEMNATION
- ☐ 230 RENT LEASE & EJECTMENT
- ☐ 240 TORTS TO LAND
- ☐ 245 TORT PRODUCT LIABILITY
- ☐ 310 AIRPLANE
- ☐ 315 AIRPLANE PRODUCT LIABILITY
- ☐ 320 ASSAULT LIBEL & SLANDER
- ☐ 330 FEDERAL EMPLOYER'S LIABILITY
- ☐ 345 MARINE PRODUCT LIABILITY
- ☐ 350 MOTOR VEHICLE

- ☐ 355 MOTOR VEHICLE PRODUCT LIABILITY
- ☐ 362 PERSONAL INJURY MED. MALPRACTICE
- ☐ 365 PERSONAL INJURY PRODUCT LIABILITY
- ☐ 370 FRAUD OR TRUTH-IN-LENDING
- ☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY
- ☐ 410 ANTI-TRUST
- ☒ 418 AUTOMATIC STAY LITIGATION
- ☐ 424 OBJ/REVOCATION DISCHARGE 727
- ☐ 425 DISCHARGEABILITY 523 (a) (2)
- ☐ 426 DISCHARGEABILITY 523 (a) (4)
- ☐ 427 DISCHARGEABILITY 523 (a) (5)
- ☐ 428 DISCHARGEABILITY 523 (a) (6)
- ☐ 429 DISCHARGEABILITY (OTHER)
- ☐ 430 BANKS AND BANKING
- ☐ 431 RECOVER ACCOUNTS RECEIVABLE
- ☐ 432 TURNOVER COMPLAINT BY TRUSTEE

- ☐ 433 SALE FREE AND CLEAR OF LIENS
- ☐ 434 INJUNCTIVE RELIEF
- ☐ 435 DETERMINE VALIDITY, PRIORITY & EXTENT OF LIEN
- ☐ 436 SELLER RECLAMATION (BULK)
- ☐ 437 TRANSFER AND OBLIGATION AVOIDANCE BY TRUSTEE
- ☐ 438 LIEN AVOIDANCE BY DEBTOR 522(f)
- ☐ 439 LIEN ENFORCEMENT (RECLAMATION)
- ☐ 450 COMMERCE LOC RATES, ETC.
- ☐ 540 MANDAMUS & OTHER
- ☐ 650 SECURITIES COMMODITIES EXCHANGE
- ☐ 670 TAXES
- ☐ 820 COPYRIGHT
- ☐ 830 PATENT
- ☐ 840 TRADEMARK
- ☐ 407 OTHER ACTION WHICH IS A "RELATED PROCEEDING"
- ☐ 408 OTHER ACTION WHICH IS NOT A "RELATED PROCEEDING"

(PLACE AN ☒ IN ONE BOX ONLY)

ORIGIN

☒ 1 Original Proceeding ☐ 2 Removed from State/District Court ☐ 3 Removed from Appellate Court ☐ 4 Reinstated/Reopened ☐ 5 Transferred from another Bankruptcy Court (Specify District) ☐ 6 Multidist. Litigation

United States Bankruptcy Court

For the Northern District of Georgia

In re:

TARACORP, INC., a/k/a
EVANS METAL COMPANY,
SEITZINGERS, IMACO and
TARACORP INDUSTRIES
Debtor,
TARACORP, INC. a/k/a
EVANS METAL COMPANY,
SEITZINGERS, IMACO and
TARACORP INDUSTRIES,

Bankruptcy No. 82-04654A

Adversary No. _____

Plaintiff,

WILLIAM D. RUCKELSHAUS,
Administrator, United States
Environmental Protection
Agency

ALL DOCUMENTS REGARDING THE
MATTER MUST BE IDENTIFIED
BOTH ADVERSARY AND BANKRUPTCY
CASE NUMBERS, CHAPTER NUMBER
AND NAME OF JUDGE ASSIGNED
CASE.

Defendant

SUMMONS AND NOTICE OF Pre-Trial Conference

To the above-name defendant:

You are hereby summoned AND REQUIRED TO SERVE upon

S. Jarvin Levison, plaintiff's
attorney, whose address is 55 Park Place, Suite 400 Atlanta, GA 30335.
A MOTION OR AN ANSWER* to the complaint which is herewith served upon you, ON OR
BEFORE

_____, AND TO FILE THE MOTION OR ANSWER
WITH THIS COURT not later than the second business day thereafter. IF YOU FAIL TO DO SO,
JUDGMENT BY DEFAULT WILL BE TAKEN AGAINST YOU for the relief demanded in the com-
plaint.

YOU ARE HEREBY NOTIFIED
THAT A PRE-TRIAL CONFERENCE WITH RESPECT TO THIS
COMPLAINT HAS BEEN SET FOR _____, at
_____ o'clock _____ m., in Room _____, Richard B. Russell Building, 75 Spring
Street, S.W., Atlanta, Georgia 30303.


Clerk of Bankruptcy Court

[Seal of the U.S. Bankruptcy Court]

By: _____
Deputy Clerk

Date of issuance: _____

*If you make a motion, as you may in accordance with Bankruptcy Rule 712, the rule governs the time within which your answer must be served.

PLAINTIFFS

DEFENDANTS

Taracorp, Inc. Metal Company,
Seitzingers, Imaco and Taracorp Industries

United States Environmental
Protection Agency

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

S. Jarvin Levison
Simon A. Miller
Arnall Golden & Gregory
55 Park Place, Suite 400
Atlanta, Georgia 30335

ATTORNEYS (IF KNOWN)

PLACE AN ☒ IN ONE BOX ONLY

PARTY

☐ 1 U.S. PLAINTIFF ☒ 2 U.S. DEFENDANT ☐ 3 U.S. NOT A PARTY

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED.)

Complaint for Declaratory and Injunctive Relief against administrative action under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq.

(PLACE AN ☒ IN ONE BOX ONLY)

NATURE OF PROCEEDING

THIS IS A "RELATED PROCEEDING" UNDER THE MODEL BANKRUPTCY REFERENCE RULE.
THIS IS NOT A "RELATED PROCEEDING" UNDER THE MODEL BANKRUPTCY REFERENCE RULE.

(PLACE AN ☒ IN ONE BOX ONLY)

NATURE OF SUIT

- | | | |
|---|---|---|
| <input type="checkbox"/> 110 INSURANCE
<input type="checkbox"/> 130 MILLER ACT
<input type="checkbox"/> 140 NEGOTIABLE INSTRUMENT
<input type="checkbox"/> 160 STOCKHOLDERS SUIT
<input type="checkbox"/> 185 CONTRACT PRODUCT LIABILITY
<input type="checkbox"/> 210 CONDEMNATION
<input type="checkbox"/> 230 RENT LEASE & EJECTMENT
<input type="checkbox"/> 240 TORTS TO LAND
<input type="checkbox"/> 245 TORT PRODUCT LIABILITY
<input type="checkbox"/> 310 AIRPLANE
<input type="checkbox"/> 315 AIRPLANE PRODUCT LIABILITY
<input type="checkbox"/> 320 ASSAULT LIBEL & SLANDER
<input type="checkbox"/> 330 FEDERAL EMPLOYER'S LIABILITY
<input type="checkbox"/> 345 MARINE PRODUCT LIABILITY
<input type="checkbox"/> 360 MOTOR VEHICLE | <input type="checkbox"/> 350 MOTOR VEHICLE PRODUCT LIABILITY
<input type="checkbox"/> 362 PERSONAL INJURY-MED. MALPRACTICE
<input type="checkbox"/> 365 PERSONAL INJURY PRODUCT LIABILITY
<input type="checkbox"/> 370 FRAUD OR TRUTH-IN-LENDING
<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY
<input type="checkbox"/> 410 ANTI-TRUST
<input checked="" type="checkbox"/> 418 AUTOMATIC STAY LITIGATION
<input type="checkbox"/> 424 OBJ/REVOCATION DISCHARGE 727
<input type="checkbox"/> 425 DISCHARGEABILITY 523 (a) (2)
<input type="checkbox"/> 426 DISCHARGEABILITY 523 (a) (4)
<input type="checkbox"/> 427 DISCHARGEABILITY 523 (a) (5)
<input type="checkbox"/> 428 DISCHARGEABILITY 523 (a) (6)
<input type="checkbox"/> 429 DISCHARGEABILITY (OTHER)
<input type="checkbox"/> 430 BANKS AND BANKING
<input type="checkbox"/> 431 RECOVER ACCOUNTS RECEIVABLE
<input type="checkbox"/> 432 TURNOVER COMPLAINT BY TRUSTEE | <input type="checkbox"/> 433 SALE FREE AND CLEAR OF LIENS
<input type="checkbox"/> 434 INJUNCTIVE RELIEF
<input type="checkbox"/> 435 DETERMINE VALIDITY, PRIORITY & EXTENT OF DEBTS
<input type="checkbox"/> 436 SELLER REPLETION (SIC)
<input type="checkbox"/> 437 TRANSFER AND OBLIGATION AVOIDANCE BY TRUSTEE
<input type="checkbox"/> 438 LIEN AVOIDANCE BY DEBTOR 522(f)
<input type="checkbox"/> 439 LIEN ENFORCEMENT (REPLETION)
<input type="checkbox"/> 440 COMMERCIAL PAPER, ETC.
<input type="checkbox"/> 445 MANDAMUS & OTHER
<input type="checkbox"/> 450 SECURITIES COMMODITIES EXCHANGE
<input type="checkbox"/> 470 TAXES
<input type="checkbox"/> 475 COPYRIGHT
<input type="checkbox"/> 480 PATENT
<input type="checkbox"/> 485 TRADEMARK
<input type="checkbox"/> 497 OTHER ACTION WHICH IS A "RELATED PROCEEDING" UNDER THE MODEL BANKRUPTCY REFERENCE RULE |
|---|---|---|

(PLACE AN ☒ IN ONE BOX ONLY)

ORIGIN

☒ 1 Original Proceeding ☐ 2 Removed from State/District Court ☐ 3 Removed from Appellate Court ☐ 4 Reinstated/Reopened ☐ 5 Transferred from another District Court ☐ 6 Multidistrict Litigation

United States Bankruptcy Court

For the Northern District of Georgia

In re:
TARACORP, INC., a/k/a
EVANS METAL COMPANY,
SEITZINGERS, IMACO and
TARACORP INDUSTRIES,
Debtor,

Bankruptcy No. 82-04654A

TARACORP, INC. a/k/a
EVANS METAL COMPANY,
SEITZINGERS, IMACO and
TARACORP INDUSTRIES,

Adversary No. _____

Plaintiff,

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

ALL DOCUMENTS REGARDING THIS
MATTER MUST BE IDENTIFIED BY
BOTH ADVERSARY AND BANKRUPTCY
CASE NUMBERS, CHAPTER NUMBER
AND NAME OF JUDGE ASSIGNED TO
CASE.

Defendant

SUMMONS AND NOTICE OF Pre-Trial Conference

To the above-name defendant:

You are hereby summoned AND REQUIRED TO SERVE upon

S. Jarvin Levison, plaintiff's
attorney, whose address is 55 Park Place, Suite 400, Atlanta, GA 30335.
A MOTION OR AN ANSWER* to the complaint which is herewith served upon you. ON OR
BEFORE _____

AND TO FILE THE MOTION OR ANSWER
WITH THIS COURT not later than the second business day thereafter. IF YOU FAIL TO DO SO,
JUDGMENT BY DEFAULT WILL BE TAKEN AGAINST YOU for the relief demanded in the com-
plaint.

YOU ARE HEREBY NOTIFIED

THAT A PRE-TRIAL CONFERENCE WITH RESPECT TO THIS
COMPLAINT HAS BEEN SET FOR _____ at
_____ o'clock _____ m., in Room _____, Richard B. Russell Building, 75 Spring
Street, S.W., Atlanta, Georgia 30303.

Johnny L. Presley
Clerk of Bankruptcy Court

[Seal of the U.S. Bankruptcy Court]

By: _____
Deputy Clerk

Date of issuance: _____

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CHAPTER 11
)	
TARACORP, INC., a/k/a)	JUDGE HUGH ROBINSON
EVANS METAL COMPANY,)	
SEITZINGERS, IMACO and)	CASE NO. 82-04654A
TARACORP INDUSTRIES,)	
)	
Debtor.)	
<hr/>		

TARACORP, INC., a/k/a)	
EVANS METAL COMPANY,)	
SEITZINGERS, IMACO and)	
TARACORP INDUSTRIES,)	
)	
Plaintiff,)	
)	
v.	)	ADVERSARY PROCEEDING
)	
WILLIAM D. RUCKELSHAUS,	)	NO. _____
Administrator, United States)	
Environmental Protection)	
Agency, and UNITED STATES)	
ENVIRONMENTAL PROTECTION)	
AGENCY,)	
)	
Defendants.)	
<hr/>		

ORDER

Taracorp, Inc. Debtor and Plaintiff in the above-referenced adversary action having moved pursuant to Bankruptcy Rules 7030, 7033 and 7034 and Rules 30, 33 and 34 of the Federal Rules of Civil Procedure for an Order expediting the discovery in the above-referenced adversary proceeding on the ground that if movant cannot begin its discovery until 30 days after service of the Complaint, irreparable harm will have occurred, as more particularly set forth in Taracorp's Complaint and Motion for

Temporary Restraining Order (with supporting Affidavits) in
this adversary proceeding,

IT IS HEREBY ORDERED that Taracorp's Motion be granted,
and that Taracorp have leave to engage in expedited discovery
including but not limited to leave to depose the Defendants
and examine requested documents prior to the expiration of
30 days after service upon Defendants of the Summons and Complaint.

Dated at Atlanta this _____ day of _____, 1984.

HUGH ROBINSON, Judge
United States Bankruptcy Court

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)
)
TARACORP, INC., a/k/a) CHAPTER 11
EVANS METAL COMPANY,) JUDGE HUGH ROBINSON
SEITZINGERS, IMACO and)
TARACORP INDUSTRIES,) CASE NO. 82-04654A
)
Debtor.)
_____)

TARACORP, INC. a/k/a)
EVANS METAL COMPANY,)
SEITZINGERS, IMACO and)
TARACORP INDUSTRIES,)
)
Plaintiff,)
)
v.) ADVERSARY PROCEEDING
)
WILLIAM D. RUCKELSHAUS,) No. _____
Administrator, United States)
Environmental Protection)
Agency, and UNITED STATES)
ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Defendants.)
_____)

MOTION FOR EXPEDITED DISCOVERY
AND BRIEF IN SUPPORT THEREOF

Taracorp, Inc., Debtor and Plaintiff in the above-referenced adversary action, moves the Court pursuant to Bankruptcy Rules 7030, 7033 and 7034 and Rules 30, 33 and 34 of the Federal Rules of Civil Procedure for an order expediting the discovery in the above-referenced adversary proceeding. Such an order is needed because if Taracorp is not able to begin its discovery until 30 days after service of the

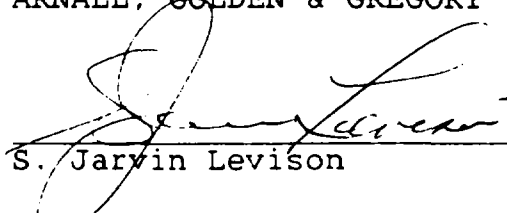
Complaint, irreparable harm will have occurred, as more particularly set forth in Taracorp's Complaint and Motion for Temporary Restraining Order in this adversary proceeding.


WHEREFORE, Taracorp prays that this Court enter an order granting Taracorp leave to engage in expedited discovery including but not limited to leave to depose the Defendants and examine requested documents prior to the expiration of 30 days after service upon Defendants of the Summons and Complaint.

This 28 day of March, 1984.

Respectfully submitted,

ARNALL, GOLDEN & GREGORY


S. Jarvin Levison


Simon A. Miller

Attorneys for Taracorp, Inc.

55 Park Place
Atlanta, Georgia 30335
(404) 577-5100

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	
)	CHAPTER 11
TARACORP, INC., a/k/a)	
EVANS METAL COMPANY,)	JUDGE HUGH ROBINSON
SEITZINGERS, IMACO and)	
TARACORP INDUSTRIES,)	CASE NO. 82-04654A
)	
Debtor.)	

TARACORP, INC., a/k/a)	
EVANS METAL COMPANY)	
SEITZINGERS, IMACO and)	
TARACORP INDUSTRIES,)	
)	
Plaintiff,)	
	)	ADVERSARY PROCEEDING
v.)	
	)	NO. _____
WILLIAM D. RUCKELSHAUS,)	
Administrator, United States)	
Environmental Protection)	
Agency, and UNITED STATES)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Defendants.)	

STATE OF GEORGIA)
)
COUNTY OF FULTON)

AFFIDAVIT OF STANTON SOBEL

Before the undersigned officer, authorized to administer oaths, appeared STANTON SOBEL, who being duly sworn, stated the following:

1.

My name is Stanton Sobel. I am the Executive Vice President of Taracorp, Inc., the Debtor in the above-referenced Chapter 11

proceeding and Plaintiff in the above-referenced adversary proceeding. I make this Affidavit of my own personal knowledge.

2.

For the past several months, I have been a participant in negotiating on behalf of Taracorp with the Illinois Environmental Protection Agency ("IEPA") concerning its stated intention to nominate Taracorp's Granite City, Illinois facility to the National Priorities List ("NPL or Superfund List"). Based upon Taracorp's experience with its facility in St. Louis Park, Minnesota, placement upon the Superfund List will inevitably reduce the value of the facility to a fraction of its present worth, or even to a negative value.

3.

Thus placement upon the Superfund List would cause irreparable harm to both Taracorp and its creditors in the pending Chapter 11 proceeding.

4.

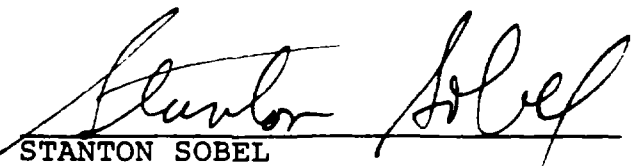
Taracorp recently entered into a Consent Decree with IEPA concerning ongoing operations at its Granite City, Illinois facility with respect to air emissions.

5.

USEPA has determined to list Taracorp's Granite City facility come what may; USEPA is unwilling to list only the 3 acre waste pile on the NPL, although such listing should accomplish what IEPA and/or USEPA are seeking; and the listing

of the whole facility on the Superfund List will create irreparable damage by destroying the value of the Granite City facility which is a significant portion of the estate involved in the present Chapter 11 proceeding and Taracorp may not be able to effectuate a reorganization if the facility loses its value.

FURTHER AFFIANT SAYETH NOT.


STANTON SOBEL

Sworn to and subscribed
before me this 28 day
of March, 1984.


Notary Public

[SEAL] Notary Public, Georgia, State at Large
My Commission Expires Dec. 4, 1987

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)
)
) CHAPTER 11
TARACORP, INC., a/k/a)
EVANS METAL COMPANY,) JUDGE HUGH ROBINSON
SEITZINGERS, IMACO and)
TARACORP INDUSTRIES,) CASE NO. 82-04654A
)
Debtor.)
_____)

TARACORP, INC. a/k/a)
EVANS METAL COMPANY,)
SEITZINGERS, IMACO and)
TARACORP INDUSTRIES,)
)
Plaintiff,)
)
v.) ADVERSARY PROCEEDING
)
WILLIAM D. RUCKELSHAUS,) No. _____
Administrator, United States)
Environmental Protection)
Agency, and UNITED STATES)
ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Defendants.)
_____)

STATE OF GEORGIA)
)
COUNTY OF FULTON)

AFFIDAVIT OF S. JARVIN LEVISON

Before the undersigned officer, authorized to administer oaths, appeared S. JARVIN LEVISON, who being duly sworn, stated the following:

1.

My name is S. Jarvin Levison. I am an attorney representing Taracorp, Inc., the Debtor in the above-referenced Chapter 11 proceeding and Plaintiff in the above-referenced adversary proceeding. I make this Affidavit on my own personal knowledge.

2.

For the past several months, I have been negotiating on behalf of Taracorp with the Illinois Environmental Protection Agency ("IEPA") concerning its stated intention to nominate Taracorp's Granite City, Illinois facility to the National Priorities List ("NPL or Superfund List").

3.

Accordingly, Taracorp filed an adversary proceeding against IEPA in this Court (No. 83-2063A) in which a hearing on the merits is scheduled for April 5, 6 and 9, 1984.

4.

Taracorp recently entered into a Consent Decree with IEPA concerning ongoing operations at its Granite City, Illinois facility with respect to air emissions.

5.

On March 21, 1984 counsel for IEPA requested that Taracorp consent to a 60-day continuance of the Hearing on the merits of Taracorp's application for injunctive relief against IEPA and stated that IEPA would not nominate the Granite City facility for listing on the Superfund List until after such Hearing.

6.

When I asked counsel for IEPA whether the United States Environmental Protection Agency ("USEPA") would make similar assurances, counsel for IEPA stated that he could not speak for USEPA.

7.

Accordingly, I spoke by telephone with Mr. Roger Grimes, Assistant Regional Counsel for USEPA in Region V Chicago, Illinois on March 21, 1984.

8.

In that telephone discussion, Mr. Grimes informed me for the first time that USEPA probably would proceed to place the Granite City site on the Superfund List as soon as such could be accomplished, regardless of the position of IEPA.

9.

In that telephone discussion Mr. Grimes advised me that he would discuss with others in his office whether in fact USEPA would proceed to list all of the Granite City facility on the Superfund List and he also agreed to discuss whether only the waste pile would be listed and whether any listing could be deferred beyond the publication presently scheduled for July, 1984.

10.

On March 22, 1984 Mr. Grimes advised me that he had met the previous afternoon with Mr. Richard E. Bartelt, Chief, Remedial

Response Branch, Region V, USEPA and Mr. Michael O'Toole, Mr. Grimes' counterpart on Region V's nonlegal staff. Mr. Grimes informed me:

(a) USEPA would proceed to place the Granite City facility on the NPL irrespective of IEPA's position.

(b) USEPA would be unwilling to list only the three-acre waste pile on the Superfund List, separating the waste pile from the approximately 13 acres devoted to the fabrication operations.

(c) USEPA would not be willing to delay the listing. He stated that Mr. Michael O'Toole was in the process of reviewing draft revisions to the preliminary HRS score of the facility and that this process should be complete by April 1, 1984.

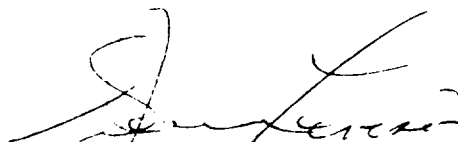
(d) USEPA would not consider recomputing the HRS score of the facility to take into account the fact that the lead smelter (blast furnace) has not been in operation since February, 1983, despite the fact that the smelter produced a significant portion of any lead emissions into the atmosphere, and despite the fact that air monitoring data taken after February, 1983 indicate that the lead in air at the 5 monitors in the Granite City area reflected readings considerably below permitted levels.

11.

Mr. Grimes further stated that USEPA Region V would send the materials necessary to list the site to the main office of

USEPA in Washington, D.C. as soon as possible, but in no event later than May 1, 1984.

FURTHER AFFIANT SAYETH NOT.


S. Jarvin Levison

Sworn to and subscribed
before me this 28 day
of March, 1984.


Notary Public

[SEAL]

Notary Public, Georgia, State at Large
My Commission Expires Dec. 4, 1987

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	
	)	CHAPTER 11
TARACORP, INC., a/k/a)	
EVANS METAL COMPANY,	)	JUDGE HUGH ROBINSON
SEITZINGERS, IMACO and)	
TARACORP INDUSTRIES,	)	CASE NO. 82-04654A
)	
Debtor.)	
<hr/>		
TARACORP, INC. a/k/a)	
EVANS METAL COMPANY,)	
SEITZINGERS, IMACO and)	
TARACORP INDUSTRIES,)	
)	
Plaintiff,)	
)	
v.	)	ADVERSARY PROCEEDING
)	
WILLIAM D. RUCKELSHAUS,	)	No. _____
Administrator, United States)	
Environmental Protection)	
Agency, and UNITED STATES)	
ENVIRONMENTAL PROTECTION)	
AGENCY,)	
)	
Defendants.)	
<hr/>		

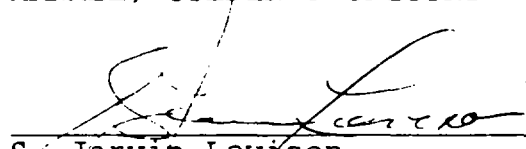
MOTION FOR TEMPORARY RESTRAINING ORDER
AND BRIEF IN SUPPORT THEREOF

Taracorp, Inc., Debtor and Plaintiff in the above-referenced adversary proceeding, pursuant to Bankruptcy Rule 7065 and Rule 65 of the Federal Rules of Civil Procedure, moves this Court to enter a temporary restraining order enjoining Defendants William D. Ruckelshaus and the United States Environmental Protection Agency from taking further steps to place Taracorp's Granite City, Illinois facility on the National Priorities List. In

support of its Motion, Taracorp relies upon the attached Affidavits of S. Jarvin Levison and Stanton Sobel attached hereto and upon its Complaint in the above-referenced adversary proceeding, which demonstrate that Taracorp is threatened with immediate and irreparable harm if such an injunction is not issued.

This 28 day of March, 1984.

Respectfully submitted,
ARNALL, GOLDEN & GREGORY


S. Jarvin Levison


Simon A. Miller

55 Park Place
Atlanta, Georgia 30335
(404) 577-5100

Attorneys for Taracorp, Inc.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	
	)	CHAPTER 11
TARACORP, INC., a/k/a)	
EVANS METAL COMPANY,	)	JUDGE HUGH ROBINSON
SEITZINGERS, IMACO and)	
TARACORP INDUSTRIES,	)	CASE NO. 82-04654A
)	
Debtor.)	
<hr/>		
TARACORP, INC. a/k/a)	
EVANS METAL COMPANY,)	
SEITZINGERS, IMACO and)	
TARACORP INDUSTRIES,)	
)	
Plaintiff,)	
)	
v.	)	ADVERSARY PROCEEDING
)	
WILLIAM D. RUCKELSHAUS,	)	No. _____
Administrator, United States)	
Environmental Protection)	
Agency, and UNITED STATES)	
ENVIRONMENTAL PROTECTION)	
AGENCY,)	
)	
Defendants.)	
<hr/>		

COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF

COMES NOW the Debtor, Taracorp, Inc. and files this Complaint for Declaratory Judgment and Injunctive Relief, alleging as follows:

Preliminary Statement

1.

This is an adversary proceeding brought for declaratory and injunctive relief arising out of Defendants' efforts to list

all of Taracorp's Granite City, Illinois facility on the National Priorities List ("NPL") of sites under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9601, et seq.

2.

This proceeding is closely related to another adversary proceeding already pending in this Court, styled Taracorp, Inc. v. People of the State of Illinois ex rel. Illinois Environmental Protection Agency, ("IEPA"), Adversary Proceeding No. 83-2063A, in which Taracorp contends that Illinois is automatically stayed from nominating all of Taracorp's Granite City facility to the NPL and alternatively seeks injunctive relief against such action.

3.

Defendants have advised Taracorp that they are in the process of listing all of Taracorp's Granite City facility on the NPL. Taracorp has proposed to both the IEPA and USEPA that it would not object and would assist in obtaining approval for listing the 3 acre waste pile on the NPL, but both the IEPA and the USEPA have rejected that proposal. Consequently, Taracorp seeks a judgment declaring that the automatic stay of 11 U.S.C. § 362(a) operates to bar such action. In the alternative, Taracorp seeks discretionary injunctive relief against such action because of the threat of immediate irreparable injury from listing on the NPL.

Jurisdiction

4.

The jurisdiction of this Court over the claims set forth in this Complaint is based upon 11 U.S.C. § 105(a), 11 U.S.C. § 362(a), 28 U.S.C. § 1471, 28 U.S.C. § 1481, 28 U.S.C. § 1651, 28 U.S.C. § 1331, 28 U.S.C. § 1334, 28 U.S.C. § 1346, 42 U.S.C. § 9613(b), and 5 U.S.C. § 704.

5.

Taracorp is a Georgia corporation and is the Debtor in a Chapter 11 proceeding in this Court. Defendant USEPA may be found in this district and the cause of action concerns Debtor's estate. Accordingly, venue is appropriate in this district pursuant to 28 U.S.C. § 1391(e) and 42 U.S.C. § 9613(b).

Parties

6.

Defendant United States Environmental Protection Agency ("USEPA"), has its headquarters in Washington, D.C. and has regional offices in, among other locations, Atlanta, Georgia. Defendant William D. Ruckelshaus is the Administrator of USEPA.

7.

Taracorp is a corporation organized under the laws of the State of Georgia with principal office in the State of Georgia. Taracorp operates a lead fabricating plant in Granite City, Illinois. Prior to March, 1983, Taracorp also operated a secondary lead smelter at the facility.

General Allegations

8.

Section 105 of CERCLA, 42 U.S.C. § 9605, directs the President to revise and republish the National Oil and Hazardous Substances Contingency Plan ("NCP") to establish procedures and standards for responding to releases of hazardous substances, pollutants, and contaminants. Section 105(8)(B), 42 U.S.C. § 9605(8)(B), requires the President to list, as part of the NCP, national priorities among known releases or threatened releases of hazardous substances, pollutants, and contaminants throughout the United States, and to revise that list no less often than annually.

9.

On September 8, 1983, Defendant USEPA published a rule creating a National Priorities List ("NPL"), sometimes called the Superfund List, consisting of sites having a hazard ranking score of 28.50 and above. 48 Fed. Reg. 40658 (1983) (to be codified at 40 C.F.R. Part 300). Taracorp's Granite City facility was not included. Subsequently, the Illinois Environmental Protection Agency ("IEPA") discussed nominating this facility to the NPL.

10.

In October, 1983, Taracorp commenced an adversary proceeding in this Court against the State of Illinois, No. 83-2063A, to enjoin Illinois ("IEPA") from nominating the

Granite City site to the Superfund List. A hearing on the merits in that proceeding is scheduled for April 5, 6 and 9, 1984.

11.

Counsel for Taracorp has been in frequent communication with counsel for both the IEPA and the USEPA regarding the question of the listing of the Granite City facility on the Superfund List. Counsel for Taracorp understood, based on published policy statements of USEPA, as well as the actions of IEPA and USEPA in this particular matter, that the decision of IEPA on whether or not to nominate the site would have a significant bearing on the outcome. On March 21, 1984, counsel for Taracorp received a telephone call from counsel for IEPA, who proposed a deferment of approximately 60 days for the April 5 hearing and related discovery.

12.

When Taracorp's counsel inquired about USEPA's position, he was informed for the first time on March 22, 1984 that USEPA would place the Granite City facility on the Superfund list irrespective of what the IEPA might do.

13.

Taracorp's Granite City facility consists of an operating metal fabricating plant, along with a three-acre waste pile which is no longer used. Taracorp has proposed to both IEPA and USEPA that the three-acre waste pile be placed on the

Superfund List without so listing the remainder of the site. Taracorp believes that IEPA and USEPA can accomplish their purposes by listing the three-acre waste pile on the NPL without listing the entire Granite City facility.

14.

Taracorp understands that the two principal purposes for listing all or any part of the Granite City facility on the NPL are to obtain funds for a study to determine what remedial action program, if any, is necessary and to pay the cost of any remedial action program if responsible parties are unable or unwilling to do so.

15.

Taracorp has been informed that the IEPA, USEPA and NL Industries, Inc. ("NL"), the former owner of the Granite City facility, have "made good progress" toward agreement for a study to be made and funded by NL. Taracorp has been informed that contracting for the study, the study itself and the evaluation period are likely to take 18 to 24 months.

16.

The agreement with NL will accomplish one of the two purposes. Listing to obtain funds for a remedial action program will not be necessary until it is determined what program is to be implemented which will not be known for another 18 to 24 months.

17.

Also on March 22, 1984, Taracorp was informed that USEPA would not agree to list the waste pile separately on the Superfund List and would not agree to any delay in so listing the entire site.

18.

Taracorp was further informed on March 22 that the Region V Office of USEPA intended to complete the Hazard Ranking System ("HRS") score of the Granite City site by April 1, 1984 and intended to nominate the site to USEPA's central office in Washington, D.C. as soon as practicable, but in no event later than May 1, 1984.

19.

Taracorp was also informed on March 22, 1984 that USEPA would not consider recomputing the HRS score to take into account the fact that the lead smelter is no longer in operation.

20.

The secondary lead smelter (blast furnace and related activities) has not been operated since February, 1983. Taracorp recently entered into a Consent Decree with IEPA which, among other things, provides that Taracorp will not operate the smelter. As a result of this Consent Decree, counsel for IEPA was quoted in the St. Louis Post-Dispatch of March 17, 1983 (pages 1, 8) as saying that "[t]here should be

no more lead air pollution problems in Granite City with these orders. They should satisfy the public health needs of the public in Granite City." A copy of this article is attached as Exhibit "A" hereto.

21.

Air monitoring data taken after the closing of the smelter not only indicates no violations of air quality standards for lead, but the lead in air has only reached 50% of that allowed by USEPA. The IEPA has stated that the most important problem regarding lead in the air is lowering lead emissions, not the existence of the waste pile which IEPA has estimated as causing approximately 13% of the lead monitored in the air.

22.

Available data indicates that the former operation of the lead smelter was a significant contributor to the measured lead in the air, and to the preliminary HRS score which Taracorp believes was based on data collected prior to the time the smelter was shut down.

23.

There is no ground water contamination which constitutes a threat to the drinking water supply of Granite City.

24.

USEPA has arbitrarily refused to re-calculate the HRS score based on current data.

25.

The lead in blood samples taken from residents of Granite City, Illinois in several different tests indicate there is no imminent threat to the public health in Granite City from Taracorp's operations, particularly now that the smelter is no longer operational and as IEPA has stated, the lead in air problems have been abated.

COUNT ONE: DECLARATORY JUDGMENT

26.

Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1-25.

27.

If USEPA is allowed to place Taracorp's facility on the Superfund List, USEPA may assert a claim for treble damages from Taracorp.

28.

USEPA's actions with regard to placing Taracorp's facility on the Superfund List are subject to the automatic stay of 11 U.S.C. § 362(a)(1), (a)(3) and (a)(6).

29.

The USEPA is barred from asserting any claims against Taracorp because USEPA was notified that it was a contingent claimant but failed to file a claim by the bar date of July 6, 1983.

30.

There is an actual controversy between Taracorp and Defendants with regard to the application of the automatic stay to Defendants' activities and with regard to whether or not Defendants may assert any claim against Taracorp.

31.

Accordingly, this Court may enter a judgment declaring the rights of the parties with regard to these matters, pursuant to 28 U.S.C. § 2201, 28 U.S.C. §2202, 11 U.S.C. § 105(a) and Bankruptcy Rule 7001(9).

COUNT TWO: INJUNCTIVE RELIEF

32.

Taracorp realleges and incorporates by reference herein the allegations contained in paragraph 1-31.

33.

Unless enjoined by this Court, Defendants will proceed to place Taracorp's Granite City facility on the Superfund List, thereby reducing the value of this property to a small fraction of its present worth, or to a negative value.

34.

Such damage would be irreparable, in that this reduction in value would be permanent and would irreparably harm Plaintiff's estate and the present Chapter 11 proceeding.

35.

There is no adequate remedy at law to prevent such irreparable harm, because the very placement of the facility on the Superfund List will create the irreparable harm in question.

36.

The granting of injunctive relief will not harm Defendants or disserve the public interest. Plaintiff is not adding any materials to the waste pile in question; Plaintiff has entered into a consent decree with IEPA regarding Plaintiff's operations in Granite City; NL Industries, Inc. has proposed to IEPA a plan to assess methods of handling the waste pile, and the placing of the site on the NPL is not necessary to accomplish an assessment of such methods. In any event, Taracorp does not object to placing the 3-acre waste pile on the Superfund List.

WHEREFORE, Taracorp prays for the following relief:

(a) That this Court enter a temporary restraining order restraining Defendants and all those acting in concert with them from taking any further steps to place Taracorp's Granite City, Illinois facility on the National Priorities List;

(b) That this Court enter an order allowing Taracorp to take expedited discovery from Defendants concerning the HRS scoring of the facility and other matters relevant to the present Complaint;

(c) That this Court enter a preliminary injunction restraining the Defendants and all those acting in concert with

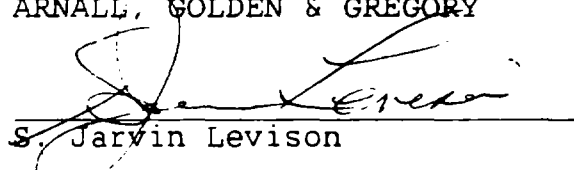
them from taking any steps to place Taracorp's Granite City, Illinois facility on the National Priorities List, pending this Court's resolution of Taracorp's prayer for declaratory judgment;

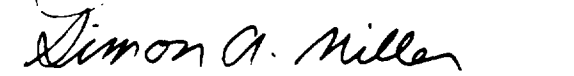
(d) That this Court enter a judgment declaring that the automatic stay of 11 U.S.C. § 362(a) operates to bar Defendants from taking any further steps to place Taracorp's Granite City facility on the National Priorities List;

(e) In the alternative, that this Court enter a preliminary and permanent injunction under its discretionary powers enjoining Defendants and all those acting in concert with them from taking any further steps to place Taracorp's Granite City facility on the National Priorities List;

(f) That this Court grant such other further relief as may be merited.

ARNALL, GOLDEN & GREGORY


S. Jarvin Levison


Simon A. Miller

Attorneys for Taracorp, Inc.

55 Park Place
Atlanta, Georgia 30335
(404) 577-5100

Granite City Lead Waste Limits OK'd

By Charles Bosworth Jr.
Of the Post-Dispatch Staff

Agreements between Illinois and five parties in Granite City should keep air pollution from lead below the standards set by the federal government, a judge in Madison County Circuit Court was told Friday.

Associate Judge Edward C. Ferguson approved the consent decrees Friday in a hearing to review the papers filed by Greg R. Siedor, assistant Illinois attorney general. The judge said the agreements appeared to be in the best interests of the health of Granite City residents.

Taracorp Inc., which owns the lead smelter and huge waste pile at 15th and State streets, agreed to spend about \$300,000 over two years to reduce pollution.

Decrees also were entered for St. Louis Lead Recyclers and Stackcorp Inc. The recycler, adjacent to the waste pile, was formed to recycle the contents of the pile. But the firm, run by Stackcorp, has not operated for some time.

The two companies are required to take certain steps to reduce lead-contaminated dust that blows or washes off their property. They also are to install anti-pollution devices if they resume operating.

The two other decrees were with

See SMELTER, Page 8

Smelter

From page one

adjacent property owners — a land trust and a trucking operation known as B.V.&G. Transport and Tri-City Truck Plaza.

Only Taracorp's plant produces lead pollution at excessive levels in the air and soil. The plant processes lead from batteries and other sources into products such as sheets, ingots, pellets and solder.

The other parties produce no pollution. But they must reduce the contaminated dust that comes off their property because they are so close to the lead plant.

The agreements were worked out in more than a year of negotiations between the parties, Siedor's office and the Illinois Environmental Protection Agency.

"There should be no more lead air pollution problems in Granite City with these orders," Siedor said. "They would satisfy the public health needs of the public in Granite City."

But he said the state was negotiating with Taracorp over other problems, including the disposition of the 200,806-ton waste pile.